

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, PERTAINING TO CRIMINAL HISTORY RECORD CHECKS; PROVIDING FOR TITLE; PROVIDING FOR AUTHORITY; PROVIDING FOR DEFINITIONS; PROVIDING FOR CRITICAL FACILITIES DETERMINATION; PROVIDING FOR CRIMINAL HISTORY RECORD CHECKS; PROVIDING FOR ALTERNATIVE COMPLIANCE; PROVIDING FOR ENFORCEMENT; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 125.5801, Florida Statutes, authorizes counties to require criminal history record checks of any private contractor, vendor, repair person or delivery person who has access to any public facility or publicly operated facility that the governing body of the county finds is critical to security or public safety; and

WHEREAS, the Board of County Commissioners of Palm Beach County finds the adoption of an ordinance requiring criminal history record checks to be conducted on certain persons requiring access to critical facilities to be reasonable and necessary to serve the important public purpose of increasing the safety and security of facilities owned, operated or leased by Palm Beach County.

WHEREAS, the Board of County Commissioners of Palm Beach County desires to adopt an ordinance pursuant to Section 125.5801, Florida Statutes, requiring criminal history record checks of certain persons requiring access to facilities that the Board determines to be critical to security or public safety; and

WHEREAS, the Board of County Commissioners of Palm Beach County intends to administratively implement the authority granted by this Ordinance by adopting a resolution that identifies those facilities or areas owned, operated or leased by the County determined the Board to be critical to security or public safety.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:

Section 1. Title.

This Ordinance shall be known and may be cited as the "Palm Beach County Criminal History Record Check Ordinance."

Section 2. Authority.

This Ordinance is enacted pursuant to the authority vested in the County by Section 125.5801, Florida Statutes.

Section 3. Definitions.

A. "Board" means the Board of County Commissioners of Palm Beach County.

B. "Contractor" means any person who is not employed by the County and provides or delivers goods or services for, to or on behalf of the County, which shall include, but shall not be limited to, employees and subcontractors of contractors, vendors, repair persons and delivery persons. The term "contractor" shall not include any local, State or Federal employees, or any persons employed by any mail, courier, postal or other similar delivery services.

1 C. "County" means the Board of County Commissioners of Palm Beach County and its
2 authorized representatives.

3 D. "Criminal History Record Check" means a fingerprint-based State and national
4 criminal history record check.

5 E. "Critical Facility" means those facilities or areas owned, operated or leased by the
6 County that have been determined by resolution of the Board to be critical to security or public safety
7 pursuant to section 4 of this Ordinance.

8 F. "Disqualifying Criminal Offense" means a conviction of or a plea of nolo contendere
9 or guilty to any of those criminal offenses listed in Appendix "A" to this Ordinance.
10 Notwithstanding the foregoing, any conviction for which a full pardon has been granted or for which
11 a person has had his or her civil rights restored shall not be considered a disqualifying criminal
12 offense.

13 G. "Existing Contractor" means a contractor who required access to a critical facility
14 prior to the effective date of this Ordinance and will continue to require access to the critical facility
15 after the effective date of this Ordinance.

16 H. "New Contractor" means a contractor who will require access to a critical facility for
17 the first time on or after the effective date of this Ordinance.

18 **Section 4. Critical Facilities Determination.**

19 The Board shall identify by resolution those facilities or areas owned, operated or leased by
20 the County that the Board determines to be critical to security or public safety, which resolution may
21 be amended, replaced or supplemented by the Board from time to time.

22 **Section 5. Criminal History Record Checks.**

23 A. All contractors shall be required to undergo a criminal history record check conducted
24 by or on behalf of the County in order to retain or be granted unescorted access to any critical
25 facility. Existing contractors shall be required to undergo a criminal history record check within
26 thirty (30) days of the effective date of this Ordinance. New contractors shall be required to undergo
27 a criminal history check prior to being granted unescorted access to any critical facility. Any
28 contractor found to have a disqualifying criminal offense or who fails to provide the information
29 necessary to complete a criminal history record check shall, when acting in his or her capacity as a
30 contractor for or on behalf of the County, be denied access to critical facilities or be required to be
31 accompanied by an escort designated by the County in critical facilities. The decision of whether
32 to deny access or require an escort in critical facilities shall be at the discretion of the County.

33 B. Prior to submitting a request for a criminal history record check pursuant to this
34 Ordinance, the County shall notify each contractor to be fingerprinted that his or her fingerprints will
35 be sent to the Florida Department of Law Enforcement for a state criminal history record check and
36 to the Federal Bureau of Investigation for a national criminal history record check.

37 C. The County shall notify any contractor found to have a disqualifying criminal offense
38 in writing that he or she has been found to have a disqualifying criminal offense and will be denied
39 access to critical facilities or be required to be accompanied by an escort designated by the County
40 in critical facilities unless the contractor provides the County with verifiable evidence that he or she
41 does not have a disqualifying criminal offense. The notification shall also state that the contractor
42 has the right to: (1) obtain a copy of his or her criminal history records; (2) to challenge the

1 completeness and accuracy of the criminal history records pursuant to State and Federal law; and (3)
2 to request a correction, change or update to the criminal history records pursuant to State and Federal
3 law. The written notification shall not include specific information regarding the contractor's
4 criminal history records or the nature of the disqualifying criminal offense. The County shall verify
5 the identity of the contractor prior to releasing the criminal history records to the contractor.

6 D. The County Administrator may establish procedures for the implementation of this
7 Ordinance, which may include, but shall not be limited to, procedures for obtaining and processing
8 criminal history record check information, standardizing information to be included in solicitations
9 issued by the County and notifying contractors of the requirements of this Ordinance.

10 E. Notwithstanding any provision of this Ordinance to the contrary, the access
11 restrictions set forth in this Ordinance shall only apply when a person is acting in his or her capacity
12 as a contractor for or on behalf of the County.

13 F. Nothing in this Ordinance shall be construed as prohibiting or preventing the County
14 from conducting any other background screening that the County may lawfully undertake.

15 **Section 6. Alternative Compliance.**

16 A contractor shall be exempt from the requirements of this Ordinance if the contractor is
17 subject to and in compliance with the criminal history record check requirements of: (1) Title 49
18 Code of Federal Regulations Parts 1500 et al., as may be amended from time to time or any
19 successor regulation or other Federal regulation establishing criminal history record check
20 requirements for public-use airports, or (2) any other Federal, State or local law, which are equal to
21 or more stringent than the requirements of this Ordinance.

22 **Section 7. Enforcement.**

23 This Ordinance shall be enforceable by all remedies available at law, but shall not be
24 enforced as a misdemeanor in accordance with Section 125.69(1), Florida Statutes.

25 **Section 8. Repeal of Laws in Conflict.**

26 All local laws and ordinances in conflict with any provisions of this Ordinance are hereby
27 repealed to the extent of such conflict.

28 **Section 9. Severability.**

29 If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is for any reason
30 held by the Court to be unconstitutional, inoperative, or void, such holding shall not affect the
31 remainder of this Ordinance.

32 **Section 10. Inclusion in the Code of Laws and Ordinances.**

33 The provisions of this Ordinance shall become and be made a part of the Code of Laws and
34 Ordinances of Palm Beach County, Florida. The sections of this Ordinance may be renumbered or
35 relettered to accomplish such, and the word "ordinance" may be changed to "section", "article", or
36 other appropriate word.

37 **Section 11. Effective Date.**

38 The provisions of this Ordinance shall become effective October 1, 2003.

1 APPROVED and ADOPTED by the Board of County Commissioners of Palm Beach County.
2 Florida, on this the 19 day of August, 2003.

3
4 PALM BEACH COUNTY, FLORIDA, BY ITS
5 BOARD OF COUNTY COMMISSIONERS

6 DOROTHY H. WILKEN, CLERK
7 Board of County Commissioners
By *Dorothy H. Wilken*
DEPUTY CLERK

By: *Karen T. Marcus*
Karen T. Marcus, Chair

8 APPROVED AS TO FORM AND
9 LEGAL SUFFICIENCY
By: *Paura Bink*
County Attorney



12 Filed with the Department of State on the 28 day of Aug., 2003.

APPENDIX "A"
DISQUALIFYING CRIMINAL OFFENSES

1. Carrying a weapon or explosive into building where same is posted as prohibited
2. Destruction or vandalism to a public buildings or property
3. Conveying false information and threats
4. Murder
5. Assault with the intent to murder
6. Espionage
7. Sedition
8. Kidnaping or hostage taking
9. Treason
10. Rape or aggravated sexual abuse
11. Unlawful possession, use, sale, distribution or manufacture of an explosive, weapon or weapon of mass destruction
12. Terrorism
13. Hate crimes
14. Extortion
15. Armed or felony unarmed robbery
16. Distribution of, or intent to distribute, a controlled substance
17. Felony arson
18. Felony involving a threat
19. Felony involving:
 - A. Willful destruction of property
 - B. Importation or manufacture of a controlled substance
 - C. Burglary
 - D. Theft
 - E. Dishonesty, fraud or misrepresentation
 - F. Possession or distribution of stolen property
 - G. Aggravated assault
 - H. Bribery
 - I. Illegal possession of a controlled substance punishable by a maximum term of imprisonment of more than one year
 - J. Violence at any public airport
 - K. Information technology crimes including, but not limited to, unlawful use of protected information or hacking
20. Conspiracy or attempt to commit any of the criminal acts listed in this Appendix "A"
21. Any offense involving animals when the access requirement is a critical facility/area within an animal care and control facility
22. Any offense involving juveniles when the access requirement is a aquatic center, gymnasium HeadStart facility, community center or High Ridge Family Center

STATE OF FLORIDA, COUNTY OF PALM BEACH
I, DOROTHY H. WILKEN, ex-officio Clerk of the
Board of County Commissioners certify this to be a
true and correct copy of the original filed in my office
on August 19, 2003
DATED at West Palm Beach, FL on 9/19/03
DOROTHY H. WILKEN, Clerk
By: Diane Brown D.C.